IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 18358 of 2005

Date: 19.08.2005

Between:

M/s. Sri Ravi Durga Agencies, BPC Dealers,
Kankipadu KRishna District, rep by proprietor
R. Durga Prasad Rao

PETITIONER

Vs.

Bharat Petroleum Corporation Ltd., Vijayawada Retail Territory,
Kattuvadipalem (PO), Pinapaka (V), Kondapally,
Vijayawada-521 228 rep by Territory Manager (Retail)

RESPONDENTS

ORDER:

-

This writ petition is filed by the petitioner aggrieved by the order dated 17.08.2005 passed by the respondent Corporation imposing suspension of retail outlet for a period of 15 days from 17.08.2005 to 31.08.2005 and further imposing a penalty of Rs.10,000/- by way of Demand Draft.

2. It is stated that the petitioner was a licensee to run an outlet for the sale of Petroleum Products under the respondent Corporation. It is also stated that the Lube Sales Assistant of the respondent Corporation collected samples of 2-T Oil from the premises of the petitioner on 22.06.2005 for the purpose of testing. As the samples tested were failed to meet two out of nine specifications with respect to metals and P.I.B content, the respondent Corporation issued notice dated 23.07.2005 asking the petitioner to explain as to why action cannot be taken against it, for which, the petitioner has submitted its explanation on 29.07.2005. But, the respondent Corporation, having not satisfied with the explanation, passed the impugned order imposing the above referred penalties.

3. The grievance of the petitioner is that the sample was not collected from the

dispensing pump, but it was collected only from out of the tin, which was in fact was supplied by the respondent Corporation. Further, the sample tested was not compared with the sample taken from the mother supplies. Therefore, there is no justification for the respondent Corporation to take action against the petitioner and impose penalty as is specified above.

4 . The learned counsel for the petitioner contended that under similar circumstances, this Court passed conditional order. Therefore, he sought for similar order.

5. The learned Standing Counsel for the respondent Corporation, however, opposed the contentions of the petitioner. He contended that as the sample collected from the petitioner was found adulterated, the respondent Corporation taking lenient view, imposed the above penalty. Therefore, there is no ground warranting interference.

6 . Heard the learned counsel for both the parties and considered the material available on record.

7. Admittedly, the sample, which was collected from the retail outlet of the petitioner, was sent for testing and in the said test, the samples found to have adulterated. As the sample did not meet the specifications with respect to metals and P.I.B contents, action was initiated against the petitioner and order was passed suspending the supplies for a period of 15 days from 17.08.2005 to 31.08.2005 apart from imposing penalty of Rs.10,000/- from the petitioner. Though the petitioner sought to contend that the test, as contemplated, was not conducted, and was not even compared with the mother supplies, therefore, the impugned order is liable to be set aside, this Court is unable to accept the said contention of the petitioner, as admittedly the test conducted with reference to the samples was resulted in finding adulteration. Therefore, the respondent Corporation is justified in passing the impugned order and the same does not call for any interference. Apart from that, in the terms of the agreement between the petitioner and the respondent, the petitioner has got a remedy of arbitration, if at all aggrieved.

8. Therefore, this Court is not inclined to accept the contention of the petitioner and the writ petition is accordingly dismissed. No order as to costs.

S. Ananda Reddy, J

Date: 19.08.2005

va